

**City of Carlsbad and Carlsbad City Employees Association
Agreement regarding Interpretation
of Article 44 of 2011-2012 CCEA MOU**

This Agreement represents the understanding of both the City of Carlsbad ("City" or "Employer") and the Carlsbad City Employees Association ("CCEA" or "Association") as to the true intent, purpose and interpretation of Article 44 (Layoff) of CCEA's current Memorandum of Understanding ("MOU"); and

WHEREAS, the City informed CCEA of its intention to lay off two employees due to a lack of funding in a department in which the employees worked; and

WHEREAS, the City and CCEA each reviewed independently the layoff provisions of Article 44 of CCEA's current (2011-2012) MOU;

WHEREAS, both parties determined, independently that the layoff provisions within Article 44 were ambiguous and that clarification was necessary before proceeding with any discussion regarding the impacts of the decision to layoff; and

WHEREAS, the City and CCEA scheduled an informal conference to discuss how the layoff provision of the MOU would be applied to the employee(s) identified in the present or in the future; and

WHEREAS, the City and CCEA representatives met to discuss the parties' understanding of Article 44 of the CCEA MOU on at least three occasions; and

WHEREAS, in the meetings described above, the City and CCEA mutually agreed on an interpretation of Article 44, a copy of which is attached hereto; and

WHEREAS, the City and CCEA desire to enter into this agreement which codifies the mutual interpretation of Article 44 *Layoff* of the 2011-2012 CCEA MOU; and

WHEREAS, this agreement of mutual interpretation of Article 44 Layoff of the 2011-2012 MOU shall terminate on the same date that the 2011-2012 CCEA MOU terminates; and

(Remainder of Page Intentionally Left Blank)


NOW THEREFORE, the City and CCEA execute this Agreement with attachments (Article 44-Revised) to acknowledge their mutual interpretation of Article 44 as reflected in Exhibit A attached hereto and incorporated herein.

We hereby affix our signatures to this document to represent our agreement as described above. Effective date shall be the date signed by the City Manager for the City of Carlsbad.

CITY OF CARLSBAD

CARLSBAD CITY EMPLOYEES
ASSOCIATION

By: 
Lisa Hildabrand
City Manager

By: 
Pam Drew
President


Dated: 5/22/12

Dated: 5-21-12

Approved as to Form:

RONALD R. BALL, City Attorney

HAYES & CUNNINGHAM, LLP

By: 
Paul Edmonson
Assistant City Attorney

By: 
Lauren Arens, Esq.

Article 44 Layoff (Revised)

Layoff: The City may layoff an employee in the merit service because of material change in duties or organization or shortage of work and funds. Fourteen (14) calendar days prior to the effective date of a layoff, the appointing authority or designee shall notify the Human Resources Director of the intended action with reasons therefore, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected and CCEA. If certified as having given satisfactory service, the name of the employee laid off shall be placed on the appropriate reemployment list as provided by these rules.

Reduction in Force Procedures: The following procedures will apply to all probationary and permanent employees in the event of a reduction in the City work force.

- (a) **Definitions:** The following definitions apply to these procedures:
 - (1) City Service Seniority shall be determined as the period of total continuous service with the City as measured from the date of original appointment.
 - (2) Classification Seniority shall be determined as the period of total continuous service of an employee in the present classification as measured from the date of appointment to that classification.
- (b) **Reduction in Force--Demotion:** Whenever there is a reduction in the work force in which more than one employee in a classification has been identified for layoff, the City shall first demote the employee in that classification with the greatest length of continuous City service to a vacancy. The employee identified for demotion to the vacant classification must have previously served in that classification and be determined to be currently qualified. An employee may refuse to accept a demotion and accept layoff without jeopardizing reemployment rights otherwise provided for in this procedure.
- (c) **Reduction in Force--Layoff:** Whenever there is a reduction in the work force, the City shall secondly layoff employees within a classification according to continuous City service seniority. Employees with the least continuous City service shall be laid off first.
- (d) **Notification:** Whenever there is a reduction in the work force requiring layoff, the City shall send written notice to the last known address of each employee affected by a layoff. The notice shall include the (1) reason for layoff, (2) classes to which the employee may demote within the City, if any, (3) effective date of action, (4) conditions governing retention on and reinstatement from reemployment lists, and (5) rules regarding waiver of reinstatement and voluntary withdrawal from the reemployment list.
- (e) **Determining Length of Seniority:** In determining continuous City service seniority, all uninterrupted employment from the original date of hire, including periods of authorized leaves of absence and including all periods of service, all uninterrupted employment from the original date of hire, including periods of authorized leaves of absence and including

all periods of time served as a limited term or CETA employee, shall be counted as continuous City service seniority.

- (f) Order of Reduction in Force: In a reduction in force the following order of layoffs shall be followed: (1) hourly, temporary and provisional employees in the affected classification series; (2) limited term employees in reverse order of their seniority in the affected class series; (3) City probationary employees in reverse order of their classification seniority in the affected class series; (4) should there be need for further reduction, regular employees who have been identified for layoff per section (c) above in the affected classification series shall be given the opportunity to accept or refuse demotion in order of their classification seniority pursuant to section (i) below; (5) should a reduction in force still be necessary, regular employees shall be laid off in reverse order of their classification seniority.
- (g) Determining Order of Layoff and Demotion for Employees With Identical Seniority: Should two or more employees have identical seniority, the order of layoff and demotion will be determined by alphabetical order of the employees' surnames, with the employee with the last name beginning with the letter closest to the beginning of the alphabet to be selected for layoff or demotion first.
- (h) Transfer: All effort will be made by the City to transfer any employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify.
- (i) Order and Method of Demotion Pursuant to a Reduction in Force--Bumping: When required due to a reduction in force, employees shall be demoted in the following manner:
 - (1) Employees who are demoted, who have held permanent status in a lower classification shall have the right to bump employees of lesser City service seniority in that lower classification.
 - (2) Employees who have not actually held status in a lower classification shall be allowed to demote to a vacant position or to a position held by a City probationary employee in such lower class, but may not bump regular City employees already in that lower classification.
- (j) Reinstatement of Employees Demoted as a Result of a Reduction in Work Force: Employees who are demoted as a result of a reduction in force shall have their names placed on a reinstatement list, in order of their City service seniority. Vacant positions in which an employee has served within a classification series shall first be offered to employees on this list.
- (k) Reemployment of Employees Laid Off as a Result of a Reduction in Force: Employees who are laid off and who held permanent City status at the time of layoff shall have their names placed on a reemployment list for classifications at the same or lower salary range

for which they qualify in the order of their classification seniority. Vacant positions in such classifications will be offered to eligibles on the reemployment list who qualify for such vacancies prior to an open or promotional recruitment.

- (l) Duration of Reinstatement and Reemployment Lists: The eligibility of individuals on the reinstatement and reemployment list shall extend for a period of two years from the date of demotion or layoff. Eligibles not responding to written notification of an opening after fourteen (14) calendar days shall have their names removed from either the reemployment or reinstatement list.
- (m) Restoration of Benefits Upon Reemployment Following a Reduction in Force: Upon reemployment following a reduction in force, an individual will have the following benefits restored:
 - (1) Prior sick leave accruals.
 - (2) Seniority at time of layoff for purposes of determining merit increases, vacation accruals and future reduction in force.
 - (3) The salary paid to an employee who is reemployed shall be equivalent to the salary plan at the time of reemployment. If the employee chooses to be reemployed in a classification which has a salary range lower than the classification from which he was laid off, then salary placement will be in the range at the Step 5 as reflected in the current effective salary plan at the time of reemployment.
- (n) Payoff of Accruals Upon Layoff: Laid off employees are to be paid for all accrued holiday, vacation, compensation time and overtime when separated as a result of a layoff. The sick leave accruals of such employee will remain on the books and will be reinstated if they are reappointed.
- (o) Retirement Contribution: The disposition of the retirement contributions of a laid off employee shall be governed by the provisions of the State of California Public Employees' Retirement Law as contained in the Government Code.